

DISTRICT OF COLUMBIA
DOH Office of Adjudication and Hearings
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DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

ANTHONY BOWEN BRANCH, YMCA OF
METROPOLITAN WASHINGTON
and ONA WHITFIELD
Respondents

Case No.: I-00-40014

FINAL ORDER

I. Introduction

By Notice of Infraction served on June 2, 2000, the Government charged Respondents with violating 29 DCMR 325.4, which requires a child development center to obtain an annual physical examination form for each child. The Notice of Infraction alleged that the violation occurred on May 10, 2000 and sought a fine of \$500.00. Respondents did not file a timely answer to the Notice of Infraction. Accordingly, on June 27, 2000, this administrative court issued an order finding Respondents in default and imposing a statutory penalty of \$500.00 for their failure to answer the Notice of Infraction in a timely manner.

On July 19, 2000, Respondents submitted an untimely plea of Admit with Explanation, along with a request for suspension or reduction of the fine. Respondents

provided no explanation for their untimely filing. On July 21, 2000, this administrative court issued an order permitting the Government to reply to Respondents' plea and request within ten days. The Government did not file any reply.

II. Summary of the Evidence

Respondents admit that they did not obtain updated health forms for several of the children in their program. They state that they corrected the infraction by sending letters to all parents informing them that children would be terminated from the program if updated health forms were not submitted. Respondents state that many health forms were submitted by June 1, and that children whose parents failed to submit forms were terminated from the program.

III. Findings of Fact

1. By their plea of Admit with Explanation, Respondents have admitted violating 29 DCMR 325.4.

2. On May 10, 2000, Respondents did not have up-to-date medical forms for several of the children in their child development center.

3. Respondents have accepted responsibility for their violation.

4. Respondents took prompt steps to correct their violation.
5. Respondents have offered no explanation for their failure to file a timely answer to the Notice of Infraction.

IV. Conclusions of Law

1. Respondents were in violation of 29 DCMR 325.4 on May 10, 2000.
2. Suspension of the fine is unwarranted, but a reduction of the fine is appropriate in light of Respondents' acceptance of responsibility and their prompt efforts to correct the violation. Accordingly, the fine will be reduced to \$350.00.
3. Respondents have not shown good cause for their failure to file a timely response to the Notice of Infraction. Accordingly, as required by D.C. Code § 6-2712(f), the \$500.00 penalty imposed by the default order of June 27, 2000 remains in effect.

Therefore, upon Respondents' answer and plea, their application for suspension of the fine, and the entire record in this case, it is hereby, this _____ day of _____, 2000:

ORDERED, that Respondents shall cause to be remitted a single payment totaling **EIGHT HUNDRED FIFTY DOLLARS (\$850.00)** in accordance with the

attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715). A failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondents' license or permit pursuant to D.C. Code § 6-2713(f).

/s/ **8-17-00**

John P. Dean
Administrative Judge